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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha in the 8th December, 1986:—

No. 142 of 1986

A Bill further to amend the Merchant Shipping Act, 1958

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Second Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Short
title
and
com-
mence-
ment.

44 of 1958,

2. In Part VI of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), for the sub-heading "Masters, mates and engineers" the sub-heading "Masters, mates, engineers, skippers, etc." shall be substituted.

Substitu-
tion of
new sub-
heading
for sub-
heading
of Part VI.

Substitu-
tion of
new sec-
tions for
sections
75 and 76.

Applica-
tion of
Part.

Defini-
tions.

Certifi-
cates of
compe-
tency to
be held
by offi-
cers of
ships.

3. For sections 75 and 76 of the principal Act, the following sections shall be substituted, namely:—

‘75. This Part applies to—

- (a) every sea-going Indian ship fitted with mechanical means of propulsion wherever it is; and
- (b) every foreign ship while it is at a port or place in India.

75A. In this Part, unless the context otherwise requires,—

(a) “contiguous zone” means the contiguous zone of India described, or notified as such for the time being under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976;

80 of 1976.

(b) “Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, signed at London on the 7th day of July, 1978, as amended from time to time;

76. (1) Every Indian ship, other than a home-trade ship of less than two hundred tons gross engaged in coasting trade of India, when going to sea from any port or place, shall be provided with officers duly certificated under this Act according to the following scale, namely:—

- (a) in every case, with a duly certificated master;
- (b) if the ship is a foreign-going ship, with an officer holding a certificate not lower than that of—
 - (i) first mate;
 - (ii) second mate; and
 - (iii) a navigational watchkeeping officer.
- (c) in the case of a home-trade ship, with an officer holding a certificate not lower than that of—
 - (i) a mate; and
 - (ii) a navigational watchkeeping officer.

(2) Every home-trade ship of less than two hundred tons gross and engaged in the coasting trade of India, when going to sea, shall be provided with officers duly certificated under this Act according to the following scale, namely:—

- (a) with a duly certificated master; and
- (b) with an officer holding a certificate not lower than that of a navigational watchkeeping officer.

(3) Every Indian ship when going to sea from any port or place shall be provided with engineers or engine drivers duly certificated under this Act according to the following scale, namely:—

- (a) if the ship has a propulsion power of 3000 KW or more, with at least one marine engineer officer class I designated as

chief engineer, one marine engineer officer class II designated as second engineer and one marine engineer officer class IV;

(b) if the ship has a propulsion power of 750 KW or more but less than 3000 KW, with at least one marine engineer officer class II having service endorsement on his certificate of competency in such form and manner as may be prescribed, and designated as chief engineer, one marine engineer officer class III designated as second engineer and one marine engineer officer class IV;

(c) if the ship has a propulsion power of 350 KW or more but less than 750 KW, with at least one marine engineer officer class III designated as chief engineer and one marine engineer officer class IV or engine driver of a sea-going ship designated as second engineer;

(d) if the ship has a propulsion power of less than 350 KW, with at least one engine driver of sea-going ship designated as engineer-in-charge.

(4) Every Indian fishing vessel when going to sea from any port or place in India, shall be provided—

(a) if the vessel is of twenty-four metres or more in length and is operating beyond the contiguous zone, with a certificated skipper grade I and a certificated mate of a fishing vessel;

(b) if the vessel is of twenty-four metres or more in length and is operating within the contiguous zone, with a certificated skipper grade II and a certificated mate of a fishing vessel;

(c) if the vessel is of less than twenty-four metres in length and is operating beyond the contiguous zone, with a certificated skipper grade II and a certificated mate of a fishing vessel;

(d) if the vessel is less than twenty-four metres in length and is operating within the contiguous zone, with a certificated skipper grade II;

(e) if the vessel has a propulsion power of 750 KW or more, with at least one engineer of a fishing vessel, who shall be designated as chief engineer and one engine driver of a fishing vessel;

(f) if the vessel has a propulsion power of 350 KW or more but less than 750 KW, with at least one engineer of a fishing vessel who shall be designated as chief engineer;

(g) if the vessel has a propulsion power of less than 350 KW, with at least one engine driver of a fishing vessel who shall be designated as engineer-in-charge.

(5) Every ship, whether at sea or in any port or place, shall engage such number of persons and with such qualifications as may be prescribed for maintaining watches.

Explanation.—For the purposes of clause (e) and (f) of subsection (4), any person holding a certificate of competency as a marine engineer officer class I or class II shall be deemed to be a

duly certificated engineer of a fishing vessel, and for the purposes of clause (g) of that sub-section, a person holding a certificate of competency as engine driver of a sea-going ship shall be deemed to be a duly certificated engine driver of a fishing vessel.

Substitution of new section for section 78.

Grades of certificates of competency.

4. For section 78 of the principal Act, the following section shall be substituted, namely:—

“78. (1) Certificates of competency shall be granted in accordance with the provisions of this Act for each of the following grades, namely:—

- extra Master;
- master of a foreign-going ship;
- first mate of a foreign-going ship;
- second mate of a foreign-going ship;
- master of a home-trade ship;
- mate of a home-trade ship;
- navigational watchkeeping officer;
- extra first class engineer;
- marine engineer officer class I;
- marine engineer officer class II;
- marine engineer officer class III;
- marine engineer officer class IV;
- engine driver of a sea-going ship;
- skipper grade I of a fishing vessel;
- skipper grade II of a fishing vessel;
- mate of a fishing vessel;
- engineer of a fishing vessel;
- engine driver of a fishing vessel;
- dredger master grade I;
- dredger master grade II;
- dredger mate grade I;
- dredger mate grade II;
- dredger engineer grade I;
- dredger engineer grade II;
- dredger driver grade I;
- dredger driver grade II;

(2) A certificate of competency granted for any grade of engineer or engine driver shall state whether it entitles the holder to act as engineer of ships or fishing vessels fitted with steam or motor engines

or with any other type of engines and the holder shall not be entitled to act as engineer of a ship fitted with a type of engine not stated in the certificate.

(3) Certificates issued to masters, mates and engineers who have to work on board ships carrying dangerous goods shall require endorsement as to the additional qualifications that may be prescribed.

(4) If it appears to the Central Government that certificates of competency for grades, other than those referred to in sub-section (1) may be granted, it may, by notification in the official Gazette, specify the other grades in respect of which certificates of competency may be granted.

(5) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate of a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such home-trade ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship.

(6) A certificate of competency as extra master shall be deemed to be of a higher grade than any other certificate of competency as master or mate of a foreign-going ship or a home-trade ship or navigational watchkeeping officer.

(7) A certificate of competency as extra first class engineer shall be deemed to be of a higher grade than any other certificate of competency as marine engineer officer, engineer or engine driver of a fishing vessel or engine driver of a sea-going ship."

5. In section 79 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 79.

"(3) Every certificate granted under sub-section (2), shall be valid for such period as may be prescribed."

6. In section 84 of the principal Act, in sub-section (1),—

Amendment of section 84.

(i) in clause (a),—

(A) for the words "master, mate, engineers and engine drivers", the words "mates and engineers" shall be substituted;

(B) the word "and" at the end shall be omitted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) who is not required to sign the agreement with the crew, shall submit before commencing the first voyage from any port to the Mercantile Marine Department having jurisdiction over such port, a list of crew with the particulars of grades of certificates of master, mates and engineers and shall also report to that Department of any later change in the list of the crew before any subsequent voyage."

Insertion of new section 86A.

Foreign ships not to sail without certificated officers.

7. After section 86 of the principal Act, the following section shall be inserted, namely:—

“86A. (1) Every master of a foreign ship shall, before proceeding to sea from any port or place in India, ensure that the ship has the requisite number of officers and engineers of appropriate grades as specified by the Convention.

(2) A surveyor or any person authorised in this behalf by the Central Government may, at any reasonable time, go on board a ship to which any of the provisions of this Part applies for the purpose of ensuring that the officers holding certificates issued in accordance with the Convention are actually appointed and are present, and satisfy himself about the adequacy of such officers for the watch keeping duties in ports and at sea.

(3) If any report made under sub-section (2) by a surveyor or any person authorised in this behalf by the Central Government, reveals any deficiency in a foreign ship in relation to the requirements of the Convention and the Central Government is satisfied that it will be unsafe for such ship to proceed to sea, that ship may be detained by the officer authorised for this purpose till such requirements are fulfilled.”.

Substitution of new section for section 87.

Power to make rules.

8. For section 87 of the principal Act, the following section shall be substituted, namely:—

“87. (1) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which a service endorsement shall be made on the certificate of competency of a marine engineer officer class II;

(b) the number of persons and the qualifications they may possess for maintaining watches by a ship at sea or in any port or place;

(c) the conduct of the examination of persons desirous of obtaining certificates of competency and endorsements thereon for the grades falling under section 78;

(d) the qualifications to be required of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(e) the fees to be paid by applicants for examination;

(f) the period for which certificate granted under sub-section

(2) of section 79 shall be valid;

(g) the form of such certificates and the manner in which copies of certificates are to be kept and recorded;

(h) the circumstances or cases in which certificates of competency may be cancelled or suspended.”.

9. In section 436 of the principal Act, in sub-section (2), in the Table for Serial Number 17 and the entries relating thereto, the following Serial Number and entries shall be substituted, namely:—

Amend-
ment of
section
436.

1	2	3	4	5
“17 If				
(a) any person causes a ship or fishing vessel to proceed to sea without the required certificated personnel;	General	Imprisonment which may extend to six months or fine which may extend to ten thousand rupees, or both.		
(b) any person having been engaged as one of the officers referred to in section 76 goes to sea as such officer without being duly certificated.	76	Imprisonment which may extend to six months or fine which may extend to five thousand rupees, or both.		
(c) any master fails to submit the required crew list or fails to report the changes made in the list before commencing the relevant voyage.	84(1)(c)	Fine which may extend to five thousand rupees and in addition, a fine which may extend to one thousand rupees for every day during which the offence continues after conviction.”.		

10. Notwithstanding anything contained in this Act, the amendments made to the principal Act by this Act shall not apply to, or in relation to, any certificate of competency granted under section 78 or recognised under section 86 of the principal Act before the commencement of this Act, and the principal Act shall continue to apply in relation to such certificates as if this Act had not been enacted.

Saving.

STATEMENT OF OBJECTS AND REASONS

Part VI of the Merchant Shipping Act, 1958, *inter alia*, provides for manning of officers for different categories of Indian ships and fishing vessels, grades of certificates of competency which should be granted, examination for the grant of such certificates, etc. The existing provisions of this Part were based generally on accepted international practices in the absence of any internationally accepted instrument laying down the minimum requirements of training, syllabi, examination and certification of ship's officers and watchkeeping crew.

2. In 1978, under the joint auspices of the International Maritime Organisation and the International Labour Organisation, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 was adopted. This Convention lays down mandatory minimum requirements for the certification of various officers working on ships and syllabi for the examination of officers for grant of various certificates. The Convention entered into force from 28-4-1984. India ratified it on 16-11-1984 and it came into force for India from 16-2-1985. It is, therefore, considered necessary to give effect to the provisions of the Convention by amending the relevant provisions of Part VI of the Merchant Shipping Act, 1958.

3. The salient proposals are:—

(1) While the existing provisions of Part VI of the Act apply only to Indian ships wherever they are, it is proposed to apply the amended Part also to foreign-flag ships while they are at Indian ports or places because the Convention requires the Contracting States (and India is a Contracting State) to ensure that any ship calling at their ports is manned by seafarers possessing the certificates as required by the Convention. For this purpose existing section 75 is sought to be substituted by a revised section.

(2) It is proposed to substitute the existing section 76 to bring the manning scales for ships in conformity with the provisions of the Convention, particularly in relation to watchkeeping requirements, propulsion power of ships, etc. It is also proposed to prescribe manning scales for fishing vessels in conformity with international practice.

(3) It is proposed to substitute existing section 78 to specify grades of certificate of competency by retaining some of the existing grades, revision of nomenclature of some of the existing grades of certificates and insertion of some grades of certificates in conformity with the Convention. It is further proposed to insert grades of certificates for dredgers for which examinations are conducted and also to provide for prescribing the period of validity of all such certificates.

(4) As the Convention requires contracting States to ensure that any foreign-flag ship calling at its ports or places to comply with the Convention requirements, it is proposed to insert a new section 86A to provide that no foreign-flag ship shall proceed to sea from any port or place in India unless it has the required number of officers of appropriate grade as prescribed by the Convention, to empower the authorised surveyor to inspect foreign ships to ensure compliance by such ships of the Convention requirements and to empower him to detain ships which are found to be deficient in respect of the Convention requirements.

4. The remaining amendments included in the Bill are of a minor or consequential nature.

5. The Bill seeks to achieve the above objects.

NEW DELHI;

RAJESH PILOT.

The 27th November, 1986.

FINANCIAL MEMORANDUM

The Merchant Shipping (Amendment) Bill, 1986 seeks to amend the Merchant Shipping Act, 1958 by way of substitution of sections 75, 76, 78 and 87, amendments of sections 84 and 436 and insertion of new section 86A with a view to facilitating the implementation of the International Convention on the Standards and Training, Certification and Watch-keeping for Seafarers, 1978 and for certain related matters. Implementation of these provisions would result in the increase in the wage bill of the technical staff of the Directorate General of Shipping and the Mercantile Marine Department. It would also necessitate incurring of additional expenditure for making arrangements for the various training courses prescribed under the Convention. There are, in all, 14 such training courses prescribed under the Convention which are as under:—

1. Radar Observer's Course,
2. First Aid at Sea Course,
3. Life Boatmen's Course,
4. Radar Simulators Course,
5. Course for revalidation of Certificates given by Nautical and Engineering College,
6. Maritime Law Course,
7. Medical Aid Course,
8. Fire Fighting Course for ratings,
9. Fire Fighting Course for officers,
10. Tanker Safety Course,
11. Safe Practice Course for chemical carriers and liquid gas carriers,
12. Safe Practice Course for hazardous cargo carriers,
13. Survival at Sea and Fire Fighting Courses, and
14. Radio Telephony Course.

The above training courses would involve some expenditure by way of appointing Nautical Engineers and Ship-Surveyors and examination clerks. The annual recurring expenditure on the requirements of above additional staff will be about Rs. 8.00 lakhs, out of which a sizeable portion, to the extent of about Rs. 4.00 lakhs, is anticipated to be recovered by way of examination fees annually. However, this will not involve creation of additional posts since these will be adjusted against posts held in abeyance.

The annual non-recurring expenditure on furniture, machines, etc., will be to the extent of Rs. 3.70 lakhs,

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to substitute section 87 of the Merchant Shipping Act, 1958 so as to enable the Central Government to make rules in respect of certain matters provided in Chapter VI of the said Act. These matters, *inter alia*, relate to the form and manner in which a service endorsement shall be made on the certificate of competency of a marine engineer officer class II and the number of persons and the qualifications they may possess for maintaining watches by a ship at sea or in any port or place, the conduct of examination of persons desirous of obtaining certificates of competency and the fees to be paid by applicants for the examination and other matters.

The matters with respect to which rules may be made under the aforesaid provisions are matters of procedure and administrative detail. The delegation of legislative power is, therefore, normal in character.

BILL NO. 151 OF 1986

A Bill to amend the Standards of Weights and Measures (Enforcement) Act, 1985.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Standards of Weights and Measures (Enforcement) Amendment Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 36.

2. In section 36 of the Standards of Weights and Measures (Enforcement) Act, 1985 (hereinafter referred to as the principal Act), for the words "shall be punished with imprisonment for a term which may extend to one year, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine", the following shall be substituted, namely:—

54 of 1985.

"shall be punished with imprisonment for a term which shall not be less than three months but which may extend to one year, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months, but which may extend to three years, and also with fine".

3. In section 37 of the principal Act, for the words "shall be punished with imprisonment for a term which may extend to two years, and for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine" wherever they occur, the following shall be substituted, namely:—

Amendment of section 37.

"shall be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine".

4. In section 38 of the principal Act, for the words "shall be punished with fine which may extend to two thousand rupees, and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine", at both the places where they occur, the following shall be substituted, namely:—

Amendment of section 38.

"shall be punished with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year and also with fine".

5. In section 63 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

Amendment of section 63.

'(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by—

- (i) the Controller;
- (ii) any other officer authorised in this behalf by the Controller by general or special order;
- (iii) any person aggrieved; or
- (iv) a recognised consumer association whether the person aggrieved is a member of such association or not.

Explanation.—For the purposes of this clause "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force;.

STATEMENT OF OBJECTS AND REASONS

The Standards of Weights and Measures (Enforcement) Act, 1985 provides for the enforcement of the standards established by or under the Standards of Weights and Measures Act, 1976. It is an important legislation designed to provide better protection to consumers by ensuring metrological accuracy in commercial transactions; industrial measurements and measurements needed for ensuring public and human safety. The Act at present does not confer any right on the aggrieved consumer or recognised consumer associations for filing complaints to be taken cognizance of by courts. To promote voluntary consumer movement and to ensure involvement of consumers as well as recognised consumer associations in the enforcement of this Act, it is considered desirable to confer specific rights on the aggrieved consumer or recognised consumer associations for filing complaints for taking cognizance of such complaints by courts. Accordingly, it is proposed to amend clause (a) of section 63 of the Act to confer rights on the aggrieved consumer or any recognised consumer association to file a complaint in courts. It is also proposed to define "recognised consumer association" under the Act so as to mean a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.

2. It is also observed that minimum penalties have not been provided for serious offences like manufacturing, sale, etc. of non-standard weights or measures, counterfeiting of seals or stamps, sale or delivery of commodities by non-standard weights or measures. It is proposed to make suitable amendments in sections 36, 37 and 38 of the Act so as to provide for minimum penalties to be awarded by courts.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

H. K. L. BHAGAT.

The 1st December, 1986.

BILL No. 152 OF 1986

A Bill further to amend the Essential Commodities Act, 1955.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities (Second Amendment) Act, 1986.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 of 1955.

2. In section 11 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 11.

(a) after the words "Indian Penal Code", the words "or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not" shall be inserted;

(b) the following *Explanation* shall be added at the end, namely:—

1 of 1956.

Explanation.—For the purposes of this section and section 12AA, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.

3. In sub-section (1) of section 12AA of the principal Act, in clause (e), after the words "Government concerned", the words "or any person aggrieved or any recognised consumer association" shall be inserted.

Amend-
ment of
section
12AA

STATEMENT OF OBJECTS AND REASONS

The Essential Commodities Act, 1955, provides, in the interest of general public, for control of production, supply, distribution, trade and commerce in commodities which have been declared as essential under the Act. To achieve these objectives, the Government has been vested with powers under the Act, to issue orders for regulating production, storage, transport and distribution of such essential commodities and for controlling the prices etc. The Act at present does not confer any right on the aggrieved consumer or recognised consumer associations to file complaints in courts.

2. To promote voluntary consumer movement and to ensure involvement of consumers as well as recognised consumer associations in the enforcement of this Act, it is considered desirable to confer specific rights on the consumer and recognised consumer associations for filing complaints to be taken cognizance of by courts. Accordingly, it is proposed to amend section 11 and clause (e) of sub-section (1) of section 12AA of the Essential Commodities Act, 1955, to confer rights on the aggrieved consumers and recognised consumer associations to file complaints in courts. It is also proposed to define a 'recognised consumer association' under the Act so as to mean a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

H. K. L. BHAGAT

The 1st December, 1986.

BILL No. 148 OF 1986

A Bill further to amend the Prevention of Food Adulteration Act, 1954

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title and
commence-
ment,

37 of 1954.

2. In section 12 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the principal Act),—

(a) in the opening paragraph, after the words “a food inspector”, the words “or a recognised consumer association, whether the purchaser is a member of that association or not,” shall be inserted;

Amend-
ment of
section 12

(b) in the first proviso, for the words “such purchaser shall inform the vendor at the time of purchase of his intention”, the words “such purchaser or recognised consumer association shall, inform the vendor at the time of purchase of his or its intention” shall be substituted;

(c) in the second proviso, for the words “purchaser of article of food who intends”, the words “purchaser of article of food or recognised consumer association who or which intends” shall be substituted;

(d) in the third proviso, for the words "purchaser shall be entitled to get refund of the fees paid by him", the words "purchaser or recognised consumer association shall be entitled to get refund of the fees paid by him or it" shall be substituted;

(e) the following *Explanation* shall be added at the end, namely:—

Explanation.—For the purposes of this section and section 20, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.' 1 of 1956.

Amend-
ment of
Section 20.

3. In section 20 of the principal Act, in sub-section (1), in the proviso,—

(a) after the words "a purchaser", the words "or recognised consumer association" shall be inserted;

(b) for the words "if he produces", the words "if he or it produces" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The prevention of Food Adulteration Act, 1954 is a consumer protection legislation, which is designed to prevent adulteration of food stuffs. The Act at present does not confer any right on recognised Consumer Associations to draw legal samples and launch prosecution where necessary.

2. A purchaser of an article of food can also draw a sample of it, for analysis by the Public Analyst on payment of prescribed fee. If the report of analysis shows adulteration, he can initiate legal action in the Court. To promote Voluntary Consumer Movement in the enforcement of this Act, it is considered necessary to confer powers on Consumer Associations also to enable them to draw samples of food stuffs for the purpose of analysis under section 12 and to initiate legal action under section 20 of the Act, if the article of food is found adulterated on analysis.

3. Opportunity has been taken to explain the expression "recognised Consumer Association" under the Act, so as to mean a Voluntary Consumer Association registered under the Companies Act, 1956 or any other law for the time being in force.

4. The Bill seeks to achieve the above object.

P. V. NARASIMHA RAO.

NEW DELHI;

The 1st December, 1986

BILL NO. 154 OF 1969

A Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Monopolies and Restrictive Trade Practices (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2

2. In section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act), after clause (m), the following clause shall be inserted, namely:—

54 of 1969.

‘(n) “registered consumers’ association” means a voluntary association of persons registered under the Companies Act, 1956 or any other law for the time being in force which is formed for the purpose of protecting the interests of consumers generally and is recognised by the Central Government as such association on an application made in this behalf in such form and such manner as may be prescribed.’

1 of 1956

3. In section 10 of the principal Act, in clause (a), in sub-clause (1), for the words "from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers", the words "from any trade association or from any consumer or a registered consumers' association, whether such consumer is a member of that consumers' association or not" shall be substituted.

Amend-
ment of
section 10.

4. In section 11 of the principal Act, in sub-section (1), for the words, brackets, figure and letter "under sub-clause (i) of clause (a)", the words, brackets, figure and letter "from any association under sub-clause (i) of clause (a)" shall be substituted.

Amend-
ment of
section 11.

5. In section 36B of the principal Act, in clause (a), for the words "from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers", the words "from any trade association or from any consumer or a registered consumers' association, whether such consumer is a member of that consumers' association or not" shall be substituted.

Amend-
ment of
section
36B.

6. In section 36C of the principal Act, for the words, brackets and letter "under clause (a)", the words, brackets and letter "by an association under clause (a)" shall be substituted.

Amend-
ment of
section
36C.

7. In section 67 of the principal Act, in sub-section (2), clause (aa) shall be relettered as clause (ac) and before clause (ac) as so relettered, the following clause shall be inserted, namely:—

Amend-
ment of
section 67.

"(ab) the form and the manner in which an application for recognition shall be made under clause (n) of section 2;"

STATEMENT OF OBJECTS AND REASONS

At present, the Monopolies and Restrictive Trade Practices Act, 1969, only gives a discretion to the Monopolies and Restrictive Trade Practices Commission to hear or not to hear an individual consumer aggrieved by any restrictive or unfair trade practice. The Bill seeks to confer an important right on an individual consumer and a voluntary consumers' association to file a complaint before the Commission and of being heard by it. On receipt of a complaint in this behalf, the Commission will be required under the provisions of the Bill to institute regular inquiry into any restrictive or unfair trade practice alleged by such individual consumer or voluntary consumers' association.

J. VENGALA RAO

NEW DELHI;

The 3rd December, 1986.

FINANCIAL MEMORANDUM

Clause 2 of the Bill defines a registered consumers' association. As per the provision made in clause 3 of the Bill, an individual consumer as well as the registered consumers' associations will have a statutory right to make a complaint and to be heard as regards any restrictive trade practice by which he or the association is aggrieved. Similarly, as per clause 5 of the Bill, such a consumer or association would have a statutory right to make a complaint and to be heard as regards any unfair trade practice by which he or the association is affected. At present, the Commission is not bound to entertain any such complaints or to institute formal enquiry proceedings. In order to give real protection to the consumer, it is also not expected that the consumers from all over the country should travel to Delhi to pursue their complaints and to be present to participate in the proceedings at Delhi. Since large number of individual complaints are expected to be filed and these complaints are to be converted into formal enquiries, it will be necessary for the Commission to set up Benches, at least to begin with, at Delhi, Bombay, Calcutta and Madras. It may also be necessary for the Commission to have Circuit Benches to sit at other State headquarters. As per present section 5 of the Act, the Commission may consist of the Chairman and eight other members. However, the Commission's present strength is the Chairman and three members. Within the maximum strength already fixed under section 5, it is proposed to appoint five additional members with necessary complement of staff including the staff required for the court room.

The recurring and non-recurring expenditure from the Consolidated Fund of India which would be involved in giving effect to the provisions of the Bill, if it is enacted, would be of the order of Rs. 51,30,000 as detailed below:

1. Recurring expenditure on pay and allowances and contingencies	Rs. 43,30,000
2. Non-recurring expenditure for accommodation, furniture, stationery, etc.	Rs. 8,00,000
	<hr/>
	Total Rs. 51,30,000

2. The Bill, if enacted, will not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to insert a definition of registered consumers' association. The said association will be recognised by the Central Government on an application made to it in such form and in such manner as may be laid down by the rules made under the Monopolies and Restrictive Trade Practices Act, 1969.

2. The matters in respect of which the said rules may be made are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 155 OF 1986

A Bill further to amend the Agricultural Produce (Grading and Marking) Act, 1937.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural Produce (Grading and Marking) Amendment Act, 1986.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1 of 1937. 2. In section 2 of the Agricultural Produce (Grading and Marking) Act, 1937 (hereinafter referred to as the principal Act),—

Amendment
of section
2.

(a) in clause (h), the word “and” occurring at the end shall be omitted;

(b) after clause (i), the following clause shall be inserted, namely:—

“(j) an article is said to be misgraded if,—

(i) the article is not of the quality prescribed for the grade designation with which it is marked;

(ii) the composition of the article offered for grading is altered in any way after a sample has been drawn for analysis and determination of the grade designation of the article in accordance with the rules made under this Act;

(iii) the article is tampered with in any manner; and

(iv) any false claim is made for the quality prescribed for its grade designation, upon the label or through advertisement or in any other manner.”.

Amend-
ment of
section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, for the words “make rules—” the following shall be substituted, namely:—

“make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—”;

(ii) in clause (f), the word “and” occurring at the end shall be omitted;

(iii) after clause (g), the following clause shall be inserted, namely:—

“(h) any other matter which is required to be, or may be, prescribed.”;

(b) sub-section (2) shall be re-numbered as sub-section (3) thereof.

Insertion
of new
sections
3A and
3B.
Powers of
entry,
inspec-
tion and
search.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

“3A. (1) Any officer of the Central Government or a State Government or any authority, being an officer of a gazetted rank or of equivalent rank, authorised by the Central Government may, if he has reason to believe that any provision of this Act or the rules made thereunder has been, or is being, contravened, enter any premises at any reasonable time and make necessary inspection of, and search for, the agricultural produce in relation to which such contravention has been, or is being, made.

(2) Every authorisation made under sub-section (1) shall be deemed to be a warrant referred to in section 93 of the Code of Criminal Procedure, 1973.

2 of 1974.

Powers of
the autho-
rised
officer to
seize agri-
cultural
produce.

3B. (1) An officer authorised under sub-section (1) of section 3A may seize and detain any agricultural produce in relation to which an offence under this Act or the rules made thereunder is being, or appears to have been, committed, or which is intended or likely to be used in the commission of such offence:

Provided that where any agricultural produce seized under this sub-section is subject to speedy or natural decay, the officer so authorised may dispose of such produce in such manner as may be prescribed.

(2) The provisions of section 102 of the Code of Criminal Procedure, 1973 shall apply to every seizure made under this section.”.

2 of 1974.

Amendment
of section
4.

5. In section 4 of the principal Act, for the words “with fine which may extend to five hundred rupees”, the words “with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees” shall be substituted.

6. In section 5 of the principal Act, for the words "with imprisonment which may extend to two years, or with fine, or with both", the words "with imprisonment for a term not exceeding three years and fine not exceeding five thousand rupees" shall be substituted.

Amend-
ment of
section 5.

7. After section 5 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
5A, 5B and
5C.

'5A. Whoever sells any scheduled article which is misgraded shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees.

Penalty for
selling mis-
graded
articles.

5B. (1) Where the Central Government is of opinion that it is necessary in the public interest or for the protection of consumers that any scheduled article or class of articles shall not be sold or distributed except after such article or class of articles is marked with the grade designation mark, it may, by notification in the Official Gazette, make a declaration to that effect.

Power to
prescribe
compulsory
grade
designa-
tions in
respect
of cer-
tain
articles.

(2) Any notification issued under sub-section (1) shall specify the area or areas in relation to which the notification shall have effect.

(3) Where a notification under sub-section (1) is issued in respect of any area or areas, no person shall sell or offer to sell or distribute or offer to distribute any scheduled article or class thereof in the area or areas except in accordance with the provisions of this Act or the rules made thereunder.

(4) Whoever contravenes the provisions of this section shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees.

5C. No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by—

Institu-
tion of
prosecu-
tion.

(a) the Central Government or the State Government or any officer authorised by it in writing; or

(b) the person aggrieved; or

(c) a recognised consumer association, whether the person aggrieved is a member of that association or not.

Explanation.—For the purposes of this section, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

The Agricultural Produce (Grading and Marking) Act, 1937 provides for the grading and marking of agricultural and other allied commodities with the objectives of making available quality agricultural produce including horticulture and livestock produce to the consumers. Under this Act, the Central Government has been authorised to make rules fixing grade designation to indicate the quality of any scheduled article, denning the quality indicated by every grade designation; specifying grade designation mark to represent particular grade designation; authorising interested parties to grade; specifying conditions regarding manner of marking, packaging etc. and providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark. The insignia used for grading is 'AGMARK'. Grading under this Act is purely voluntary in nature. Despite the elaborate procedures prescribed in the rules under the Act, complaints have been received about the quality of Agmarked goods.

2. With a view to protect to interests of the consumers and to ensure that there is no misgrading of articles, the following major amendments are proposed:—

(a) misgraded article is proposed to be defined as one not of the quality prescribed for the grade designation with which it is marked;

(b) the punishment prescribed under sections 4 and 5 of the Act for unauthorised or improper marking with grade designation mark and counterfeiting grade designation mark is proposed to be increased from Rs. 500 as fine to a penalty of imprisonment upto six months and fine upto Rs. 5,000 and from the existing penalty of imprisonment upto two years or fine or both to imprisonment upto three years and fine upto Rs. 5,000 respectively;

(c) it is also proposed to impose a fine not exceeding Rs. 5,000 and imprisonment for a term not exceeding six months for selling or distributing misgraded articles or articles not conforming to the prescribed grade or standard:

(d) it is proposed to empower the Central Government to introduce compulsory grading with respect to commodities where such grading is deemed to be in the public interest and for the protection of consumers. The compulsory grading is proposed to be introduced in respect of any article or class of articles notified for any specific area or areas. The penalty proposed to be imposed for contravention of this provision is imprisonment upto six months and fine upto Rs. 5,000;

(e) no court shall take cognizance of the offence punishable under this Act except upon a complaint in writing made by Central Government, State Government, any officer authorised to do so, and also by recognised consumer associations and the aggrieved person;

(f) it is also proposed that powers of inspection, search and se-

zures may also be vested in officers belonging to Central Government, or State Government or other authorities authorised by the Central Government.

3. The Bill seeks to achieve the above objects and to make some other consequential and clarificatory amendments in the Act.

RAMANAND YADAV

NEW DELHI;

The 2nd December, 1986

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to insert a new clause (j) in section 2 of the Agricultural Produce (Grading and Marking) Act, 1937, so as to define misgraded article. Such article will be considered to be misgraded if the article is not of the quality prescribed by rules for the grade designation with which it is marked, where the composition of the article offered for grading is altered after a sample has been drawn for analysis and determination of the grade designation of the article in accordance with the rules framed under the Act and where false claim is made for the quality prescribed for the grade designation of the article upon the label or through advertisement or in any other manner.

2. Clause 4 of the Bill proposes to insert new sections 3A and 3B in the Act. Sub-section (1) of section 3B proposes to empower an officer authorised under sub-section (1) of section 3A to seize and detain any agricultural produce in relation to which an offence under the Act or the rules made thereunder has been committed. The manner of disposal of the agricultural produce, where such produce is subject to speedy or natural decay, will be prescribed by rules. Clause 3 of the Bill proposes to amend section 3 of the Act which empowers the Central Government to make rules to carry out the provisions of the Act so as to enable that Government to make rules for the purposes covered by the aforesaid new provisions.

3. The matters in respect of which the said rules may be made are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 156 OF 1986

A Bill further to amend the Produce Cess Act, 1966 and the Coconut Development Board Act, 1979 and to repeal the Copra Cess Act, 1979 and the Vegetable Oils Cess Act, 1983.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Cotton, Copra and Vegetable Oils Cess (Abolition) Act, 1986.

Short
title.

CHAPTER II

AMENDMENTS TO THE PRODUCE CESS ACT, 1966

15 of 1966. 2. In section 2 of the Produce Cess Act, 1966 (hereafter in this Chapter referred to as the Produce Cess Act),—

Amend-
ment of
section 2.

(a) clauses (b), (g) and (h) shall be omitted;

(b) in clause (k), the words "or the Second Schedule" shall be omitted.

Omission
of sec-
tions 3 (2),
7, 8, 9, 10,
13, 14,
15(2)
and the
Second
Schedule.

3. Sub-section (2) of section 3, sections 7, 8, 9, 10, 13, 14, sub-section (2) of section 15 and the Second Schedule, of the Produce Cess Act shall be omitted.

Amend-
ment of
section 4.

4. In section 4 of the Produce Cess Act, the portion beginning with the words "and every duty of excise" and ending with the words "consumed or extracted" shall be omitted.

Amendment
of section
5.

5. In section 5 of the Produce Cess Act, in sub-section (3), the following words shall be inserted at the end, namely:—

'and "produce" includes cotton.'

Amend-
ment of
section 12.

6. In section 12 of the Produce Cess Act, in the opening portion, the words "or excise" shall be omitted.

Amend-
ment of
section 16.

7. In section 16 of the Produce Cess Act, in sub-section (1), in clause (a), the words "or excise" shall be omitted.

Amend-
ment of
section 20.

8. In section 20 of the Produce Cess Act, in sub-section (2), clauses (a), (b), (c) and (d) shall be omitted.

Amend-
ment of
section 22.

9. In section 22 of the Produce Cess Act, for the words "two successive sessions, and if, before the expiry of the session in which it is so laid", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session" shall be substituted.

CHAPTER III

AMENDMENT TO THE COCONUT DEVELOPMENT BOARD ACT, 1979

Amend-
ment of
section 13.

10. In section 13 of the Coconut Development Board Act, 1979, in sub-section (1), clause (a) shall be omitted. 5 of 1979.

CHAPTER IV

REPEAL OF THE COPRA CESS ACT, 1979 AND THE VEGETABLE OILS CESS ACT, 1983

Repeal of
Act 4 of
1979.

11. The Copra Cess Act, 1979 is hereby repealed.

Repeal
of Act
30 of 1983.

12. The Vegetable Oils Cess Act, 1983 is hereby repealed.

CHAPTER V

COLLECTION OF ARREARS OF DUTIES OF EXCISE

Collec-
tion and
payment
of arrears
of duties
of excise.

13. Notwithstanding anything contained in the amendments made to the Produce Cess Act, 1966 or the repeal of the Copra Cess Act, 1979 or the Vegetable Oils Cess Act, 1983, by this Act, any duty of excise, levied under any of the said Acts immediately before the commencement of this Act, but has not been collected before such commencement, shall be liable to be collected after such commencement in accordance with the provisions of the said Acts for being paid into the Consolidated Fund of India as if this Act had not been enacted.

15 of 1966.
4 of 1979.
30 of 1983.

STATEMENT OF OBJECTS AND REASONS

At present under the Produce Cess Act, 1966, cess on cotton is being levied at the rate of one rupee per bale of 181.4 kilograms of cotton and in the case of unbaled cotton, at the rate of 28 paise per 50 kilograms of cotton, consumed in any mill. The average annual collection of cess on cotton is to the tune of Rs. 64 lakhs. The proceeds of this cess are utilised to meet the expenditure incurred in connection with measures to promote the improvement, development and marketing of produce under the Act, which includes cotton. Similarly, cess on copra is being levied under the Copra Cess Act, 1979 at the rate of five rupees per quintal of copra, consumed in any mill. The collection of cess on copra is of the order of about Rs. 70 lakhs per annum. It is the main source of finance for the Coconut Development Board set up under the Coconut Development Board Act, 1979. Cess on vegetable oils is also being levied at the rate of five rupees per quintal of vegetable oil under the Vegetable Oils Cess Act, 1983. The estimated total collection from the cess on vegetable oils is of the order of about Rs. 7 crores per annum. It is the main source of finance for the National Oilseeds and Vegetable Oils Development Board set up under the National Oilseeds and Vegetable Oils Development Board Act, 1983.

2. As an endeavour to reduce the number of cesses and multiplicity of taxes, it is proposed to abolish the cess on cotton, copra and vegetable oils and provide necessary funds through budgetary allocations for the plans and programmes for the development of produce.

3. For the purpose of abolition of the cess, it is proposed to amend the Produce Cess Act, 1966 and repeal the Copra Cess Act, 1979 and the Vegetable Oils Cess Act, 1983. The amendments made to the Coconut Development Board Act, 1979 by clause 10 of the Bill is of a consequential nature. A provision is also being included in the Bill (*vide* clause 13) for the recovery of uncollected cess.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

G. S. DHILLON.

The 3rd December, 1986.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

(Copy of letter No. 1-12/86-CA. VI/2629, dated the 2nd December, 1986 from Shri G. S. Dhillon, Minister of Agriculture to the Secretary-General, Lok Sabha).

The President, having been informed of the subject matter of the Cotton, Copra and Vegetable Oils Cess (Abolition) Bill, 1986, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Bill in Lok Sabha.

SUBHASH C. KASHYAP,
Secretary-General.